

HOUSE BILL No. 1518

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-17-1-12; IC 33-19; IC 36-2-5-14; IC 36-3-6-3.

Synopsis: State funding of circuit clerk clerk salaries. Establishes the salary for the office of the clerk of the circuit court. Provides for the state to pay the salary of a clerk of the circuit court and allows a county to pay up to \$5,000 in additional salary to the clerk of the circuit court. Imposes a supplemental administrative costs fee on most civil, criminal, probate, and juvenile cases filed in a circuit, superior, probate, or county court.

Effective: July 1, 1999.

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January 19, 1999, read first time and referred to Committee on Courts and Criminal Code.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1518

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-17-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. (a) After December 31, 1999, the total annual salary of the clerk is equal to sum of:**

(1) the minimum annual salary of a full-time judge of a circuit court paid by the state under IC 33-13-12-7.1 multiplied by the percentage determined under subsection (b) for the county in which the clerk is elected; and

(2) any additional salary provided under IC 36-2-5-14 or IC 36-3-6-3.

(b) The following percentages apply to the computation of a clerk's salary under subsection (a):

County Population	Percentage
At least 500,000	75%
At least 200,000 but less than 500,000	65%
At least 65,000 but	



1	less than 200,000	55%
2	At least 40,000 but	
3	less than 65,000	50%
4	At least 20,000 but	
5	less than 40,000	40%
6	Less than 20,000	35%

7 (c) The state shall pay all of the total salary established under
8 subsection (a) except for the additional salary, if any, under
9 IC 36-2-5-14 or IC 36-3-6-3. The state shall deposit quarterly the
10 money received from the counties under subsection (e) in the state
11 general fund.

12 (d) Before November 2 of each year, the county auditor of each
13 county shall certify to the division of state courts administration
14 the amounts, if any, to be provided by the county during the
15 ensuing calendar year for the clerk's salary under IC 36-2-5-14 or
16 IC 36-3-6-3.

17 (e) When making each payment under subsection (a), the county
18 shall determine for the clerk whether the total of:

- 19 (1) the payment made on behalf of the clerk;
- 20 (2) previous payments made on behalf of the clerk in the same
21 calendar year; and

22 (3) the state share of the clerk's salary under subsection (a);
23 exceeds the Social Security wage base established by the federal
24 government for that year. If the total does not exceed the Social
25 Security wage base, the payment on behalf of the clerk must also
26 be accompanied by an amount equal to the employer's share of
27 Social Security taxes and Medicare taxes. If the total does exceed
28 the Social Security wage base, the part of the payment on behalf of
29 the judge that is equal to or below the Social Security wage base
30 must be accompanied by an amount equal to the employer's share
31 of Social Security taxes and Medicare taxes, and the part of the
32 payment on behalf of the judge that exceeds the Social Security
33 wage base must be accompanied by an amount equal to the
34 employer's share of Medicare taxes. Payments made under this
35 subsection shall be deposited quarterly in the state general fund.

36 (f) For purposes of determining the amount of life insurance
37 premiums to be paid by a clerk who participates in a life insurance
38 program that:

- 39 (1) is established by the state;
- 40 (2) applies to a clerk who is covered by this section; and
- 41 (3) bases the amount of premiums to be paid by the clerk on
42 the amount of the clerk's salary;



1 **the clerk's salary does not include any amounts paid to the state by**
 2 **a county under subsection (a).**

3 SECTION 2. IC 33-19-5-1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) For each action
 5 that results in a felony conviction under IC 35-50-2 or a misdemeanor
 6 conviction under IC 35-50-3, the clerk shall collect from the defendant
 7 a criminal costs fee of one hundred twenty dollars (\$120).

8 (b) In addition to the criminal costs fee collected under this section,
 9 the clerk shall collect from the defendant the following fees if they are
 10 required under IC 33-19-6:

- 11 (1) A document fee.
- 12 (2) A marijuana eradication program fee.
- 13 (3) An alcohol and drug services program user fee.
- 14 (4) A law enforcement continuing education program fee.
- 15 (5) A drug abuse, prosecution, interdiction, and correction fee.
- 16 (6) An alcohol and drug countermeasures fee.
- 17 (7) A child abuse prevention fee.
- 18 (8) A domestic violence prevention and treatment fee.
- 19 (9) A highway work zone fee.
- 20 (10) A deferred prosecution fee (IC 33-19-6-16.2).
- 21 **(11) A supplemental administrative support fee**
 22 **(IC 33-19-6-18).**

23 (c) Instead of the criminal costs fee prescribed by this section, the
 24 clerk shall collect a pretrial diversion program fee if an agreement
 25 between the prosecuting attorney and the accused person entered into
 26 under IC 33-14-1-7 requires payment of those fees by the accused
 27 person. The pretrial diversion program fee is:

- 28 (1) an initial user's fee of fifty dollars (\$50); and
- 29 (2) a monthly user's fee of ten dollars (\$10) for each month that
 30 the person remains in the pretrial diversion program.

31 (d) The clerk shall transfer to the county auditor or city or town
 32 fiscal officer the following fees, within thirty (30) days after they are
 33 collected, for deposit by the auditor or fiscal officer in the appropriate
 34 user fee fund established under IC 33-19-8:

- 35 (1) The pretrial diversion fee.
- 36 (2) The marijuana eradication program fee.
- 37 (3) The alcohol and drug services program user fee.
- 38 (4) The law enforcement continuing education program fee.

39 (e) Unless otherwise directed by a court, if a clerk collects only part
 40 of a criminal costs fee from a defendant under this section, the clerk
 41 shall distribute the partial payment of the criminal costs fee as follows:

- 42 (1) First, the clerk shall apply the partial payment to general court



costs.

(2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.

(3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.

(4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.

(5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 3. IC 33-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) For each action filed under:

(1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or

(2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) An alcohol and drug countermeasures fee.

(6) A supplemental administrative support fee (IC 33-19-6-18).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

(1) The marijuana eradication program fee.

(2) The alcohol and drug services program user fee.

(3) The law enforcement continuing education program fee.

SECTION 4. IC 33-19-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) For each civil action except:



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- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100), except as provided in subsection (b).

(b) For each proceeding for the issuance of a protective order under IC 34-26-2:

(1) the clerk shall initially collect thirty-five dollars (\$35) of the civil costs fee from the party that filed the action or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and

(2) upon disposition of the protective order petition under IC 34-26-2, the court may order that:

(A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65), be assessed against the respondent in the action as provided in IC 34-26-2-4 or against the party that filed the action; and

(B) the initial thirty-five dollar (\$35) civil costs fee be reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action as provided in IC 34-26-2-4.

(c) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A support and maintenance fee.

(3) A supplemental administrative support fee (IC 33-19-6-18).

SECTION 5. IC 33-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Except as provided under subsection (c), for each action filed under:

(1) IC 6-4.1-5 (determination of inheritance tax);

(2) IC 29 (probate); and

(3) IC 30 (trusts and fiduciaries);

the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120).

(b) In addition to the probate costs fee collected under this section,



the clerk shall collect from the party filing the action ~~a document fee~~
the following fees, if it is they are required under IC 33-19-6:

(1) A document fee.

**(2) A supplemental administrative support fee
 (IC 33-19-6-18).**

(c) A clerk may not collect a court costs fee for the filing of the
 following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than
 the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless
 proceedings other than admitting the will to probate become
 necessary.

SECTION 6. IC 33-19-6-18 IS ADDED TO THE INDIANA CODE
 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 1, 1999]: **Sec. 18. In each action in which a:**

(1) criminal costs fee under IC 33-19-5-1(a);

(2) juvenile costs fee under IC 33-19-5-3(a);

(4) civil costs fee under IC 33-19-5-4(a); or

(5) probate costs fee under IC 33-19-5-5(a);

**is imposed in a circuit, superior, probate, or county court, the clerk
 shall collect a supplemental administration support fee of
 seventeen dollars (\$17).**

SECTION 7. IC 33-19-7-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) The clerk of a
 circuit court shall semiannually distribute to the auditor of state as the
 state share for deposit in the state general fund seventy percent (70%)
 of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-3(a) (juvenile costs fees).

(4) IC 33-19-5-4(a) (civil costs fees).

(5) IC 33-19-5-5(a) (small claims costs fees).

(6) IC 33-19-5-6(a) (probate costs fees).

(7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the
 auditor of state for deposit in the state user fee fund established under
 IC 33-19-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution,
 interdiction, and correction fees collected under
 IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug



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countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(7) One hundred percent (100%) of the supplemental administrative support fee collected under IC 33-19-6-18.

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

SECTION 8. IC 36-2-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) This chapter does not affect the salaries of judges, officers of courts, prosecuting attorneys, and deputy prosecuting attorneys whose minimum salaries are fixed by statute, but the county fiscal body may make appropriations to pay them more than the minimums fixed by statute subject to subsection (b).

(b) Beginning July 1, 1995, an appropriation made under this section may not exceed five thousand dollars (\$5,000) for each judge, ~~or~~ full-time prosecuting attorney, **or, after December 31, 1999, clerk of the circuit court** in any calendar year.

SECTION 9. IC 36-3-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A legislative body shall, by ordinance or resolution, fix the annual compensation of all appointed



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1 officers, deputies, and employees under its jurisdiction. This may be
 2 done by adopting schedules of compensation. The schedules of
 3 compensation may include a provision for salaried employees whose
 4 salaries are paid on an annual basis. Salaried employees shall work a
 5 regularly scheduled work week, in accordance with the schedule of
 6 compensation.

7 (b) The city-county legislative body has jurisdiction over all
 8 appointed officers, deputies, and employees:

9 (1) of the consolidated city, except those of special service
 10 districts; or

11 (2) whose compensation is payable from the county general fund
 12 or any other fund from which the county auditor issues warrants
 13 for compensation.

14 A special service district legislative body has jurisdiction over all
 15 appointed officers, deputies, and employees of the special service
 16 district.

17 (c) This chapter does not affect the salaries of judges, officers of
 18 courts, prosecuting attorneys, and deputy prosecuting attorneys whose
 19 minimum salaries are fixed by statute, but the city-county legislative
 20 body may make appropriations to pay them more than the minimums
 21 fixed by statute. Beginning July 1, 1995, an appropriation made under
 22 this subsection may not exceed five thousand dollars (\$5,000) for each
 23 judge, ~~or~~ full-time prosecuting attorney, **or, after December 31, 1999,**
 24 **clerk of the circuit court** in any calendar year.

25 SECTION 10. [EFFECTIVE JULY 1, 1999] (a) **Notwithstanding**
 26 **IC 33-17-1-12, as added by this act, and IC 36-2-5-14 and**
 27 **IC 36-3-6-3, both as amended by this act, the total annual salary of**
 28 **a clerk of the circuit court may not be decreased during the term**
 29 **of the clerk of the circuit court in office on July 1, 1999.**

30 (b) **If the total annual salary allowed under IC 33-17-1-12, as**
 31 **added by this act, including any supplement provided under**
 32 **IC 36-2-5-14 and IC 36-3-6-3, both as amended by this act is less**
 33 **than the amount of salary to which a clerk is entitled under**
 34 **subsection (a), the county shall provide an additional supplemental**
 35 **payment in the amount of the difference.**

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